

ESTTA Tracking number: **ESTTA546415**

Filing date: **07/02/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BHPC Associates LLC
Granted to Date of previous extension	07/10/2013
Address	1370 Broadway New York, NY 10018 UNITED STATES

Attorney information	Robert L. Epstein Epstein Drangel LLP 60 East 42nd Street, Suite 2410 New York, NY 10165 UNITED STATES mail@ipcounselors.com Phone:2122925390
----------------------	--

Applicant Information

Application No	85746758	Publication date	03/12/2013
Opposition Filing Date	07/02/2013	Opposition Period Ends	07/10/2013
Applicant	King Family Vineyards, LLC 6550 Roseland Farm 6550 Roseland Farm Crozet, VA 22932 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2008/06/01 First Use In Commerce: 2008/07/04 All goods and services in the class are opposed, namely: Baseball caps; Collared shirts; Dress shirts; Hooded sweat shirts; Knit shirts; Polo shirts; Rugby shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sweat shirts; T-shirts; Tee shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1429311	Application Date	11/12/1985
Registration Date	02/17/1987	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1985/02/18 First Use In Commerce: 1985/02/18 CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]

U.S. Registration No.	1751058	Application Date	10/01/1991
Registration Date	02/09/1993	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1991/05/31 First Use In Commerce: 1991/05/31 ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses</p> <p>Class 014. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 watches</p> <p>Class 018. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses</p> <p>Class 024. First use: First Use: 1991/03/01 First Use In Commerce: 1991/03/01 beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers</p> <p>Class 025. First use: First Use: 1989/10/31 First Use In Commerce: 1989/10/31 clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts</p>		

U.S. Registration No.	2214846	Application Date	08/08/1994
Registration Date	12/29/1998	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/10/01 First Use In Commerce: 1994/10/01 footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes		

Attachments	070213opposition.pdf(304534 bytes)
-------------	-------------------------------------

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/robert l. epstein/
Name	Robert L. Epstein
Date	07/02/2013


<hr/>		X
	:	
BHPC ASSOCIATES LLC,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
KING FAMILY VINEYARDS, LLC	:	
	:	
Applicant.	:	
<hr/>		X



1. Continuously and long prior to the Applicant's filing date of October 5, 2012 of its Application Serial No. 85746758 to register 7 and Polo Player Design, Opposer has offered and continues to offer a variety of goods, including a wide assortment of apparel for men, ladies, boys, girls and infants, bearing the mark BEVERLY HILLS POLO CLUB in Design including

the image of a polo player on horseback swinging his mallet (the "BEVERLY HILLS POLO CLUB and Polo Player Design mark").

2. Over a prolonged period of time, Opposer has invested a substantial amount of time, effort and money promoting its BEVERLY HILLS POLO CLUB and Polo Player Design mark and the goods bearing that mark. As a result of its promotional efforts, a tremendous volume of sales, and extensive use of the BEVERLY HILLS POLO CLUB and Polo Player Design mark, Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark has attained widespread acclaim in the United States, and has come to be exclusively recognized as identifying the products of Opposer. Since long before any use of or alleged rights of Applicant in the mark hereby opposed, Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark has become distinctive of Opposer's goods and represents a tremendous amount of goodwill of Opposer's business.

3. In addition to its common law rights, Opposer owns the following incontestable United States trademark registrations of the BEVERLY HILLS POLO CLUB and the Polo Player Design mark for use in the aggregate in connection with Opposer's goods:

MARK	Class(es)	REGISTRATION NUMBER	REGISTRATION DATE
	25	1429311	02-17-1987

	09,14,18,24,25	1751058	02-09-1993
	25	2214846	12-29-1998

4. Opposer's registrations are valid, subsisting, in full force and effect, incontestable, and are evidence of Opposer's exclusive rights to use its registered marks on the identified goods, pursuant to 15 U.S.C. §§ 1057 and 1115. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned incontestable registrations are attached hereto as **Exhibit A**.

5. Upon information and belief, King Family Vineyards, LLC ("Applicant") filed with the United States Patent and Trademark Office an Application to register 7 and Polo Player Design, Application Ser. No. 85746758, in International Class 025, for "baseball caps; collared shirts; dress shirts; hooded sweat shirts; knit shirts; polo shirts; rugby shirts; shirts and short-sleeved shirts; short-sleeved or long-sleeved T-shirts; short-sleeved shirts; sweat shirts; T-shirts; Tee-shirts," dated October 5, 2012.

6. Applicant is not connected to Opposer in any way and has not been authorized by Opposer to use 7 and Polo Player Design as reflected in Application Ser. No. 85746758.

COUNT I: Priority and Likelihood of Confusion

7. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 6 as if fully set forth herein.

8. Upon information and belief, Opposer acquired rights in the BEVERLY HILLS POLO CLUB and Polo Player Design mark prior to any date on which Applicant can rely in connection with 7 and Polo Player Design in International Class 025, as reflected in Application Ser. No. 85746758.

9. Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark is the same as or similar to 7 and Polo Player Design, in International Class 025, as reflected in Ser. No. 85746758 in appearance, sound, meaning and commercial impression, both marks including virtually identical or confusingly similar polo player images.

10. The goods and services of the respective parties are in some cases directly competitive and in all cases commercially related, and/or the conditions and activities surrounding the use of the marks of the respective parties are such that they would or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that such goods originate from the same source or indicate an affiliation between the parties.

11. As a result, 7 and Polo Player Design, as reflected in Application Ser. No. 85746758, when used in connection with the goods in International Class 025 identified said application, is likely to cause confusion or mistake or to deceive and mislead the public into believing that Applicant's goods are provided by Opposer, or that Applicant or its goods are authorized, licensed or controlled by Opposer, or that Applicant is affiliated with or in some way related to Opposer. Accordingly, any such use or and the issuance of the registration of 7 and

Polo Player Design in International Class 025 as reflected in Application Ser. No. 85746758 would and does violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. By reason of the foregoing, Opposer will be damaged by the registration of the mark of 7 and Polo Player Design in International Class 025, as reflected in Application Ser. No. 85746758.

WHEREFORE, it is respectfully requested that this notice of opposition be sustained and that the Board refuse to register 7 and Polo Player Design in International Class 025, as reflected in Application Ser. No. 85746758.

Respectfully submitted,

EPSTEIN DRANGEL LLP

Dated: July 2, 2013

By: /Robert L. Epstein/
Robert L. Epstein
William C. Wright
Jason M. Drangel
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel. No.: (212) 292-5390
Fax. No.: (212) 292-5391

EXHIBIT A



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jul 2 03:20:34 EDT 2013

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)[Logout](#) Please logout when you are done to release system resources allocated for you.[Start](#) List At: OR [Jump](#) to record: **Record 15 out of 16**[TSDR](#) [WORD STATUS](#) [CLASS STATUS](#) (Use the "Back" button of the Internet Browser to return to TESS)

Word Mark	BEVERLY HILLS POLO CLUB
Goods and Services	IC 025. US 022 039. G & S: CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]. FIRST USE: 19850218. FIRST USE IN COMMERCE: 19850218
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
Serial Number	73568042
Filing Date	November 12, 1985
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	November 25, 1986
Registration Number	1429311
Registration Date	February 17, 1987
Owner	(REGISTRANT) GREGORY LANG, INC. CORPORATION CALIFORNIA 1940 LOVELACE AVENUE LOS ANGELES CALIFORNIA 90015

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Karin Segall
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070709.
Renewal 1ST RENEWAL 20070709
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jul 2 03:20:34 EDT 2013

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#)
[NEXT LIST](#) | [FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)
[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record: **Record 4 out of 16**
[TSDR](#) | [ASSIGN STATUS](#) | [FILE STATUS](#) (Use the "Back" button of the Internet Browser to return to TESS)


Word Mark	BEVERLY HILLS POLO CLUB
Goods and Services	<p>IC 009. US 002 026. G & S: ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses. FIRST USE: 19910531. FIRST USE IN COMMERCE: 19910531</p> <p>IC 014. US 027. G & S: watches. FIRST USE: 19910831. FIRST USE IN COMMERCE: 19910831</p> <p>IC 018. US 003 041. G & S: wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses. FIRST USE: 19910331. FIRST USE IN COMMERCE: 19910331</p> <p>IC 024. US 042. G & S: beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers. FIRST USE: 19910301. FIRST USE IN COMMERCE: 19910301</p> <p>IC 025. US 039. G & S: clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts. FIRST USE: 19891031. FIRST USE IN COMMERCE: 19891031</p>
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	<p>02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen</p> <p>02.01.31 - Men, stylized, including men depicted in caricature form</p> <p>02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans</p>

21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Serial Number 74209022

Filing Date October 1, 1991

Current Basis 1A

Original Filing Basis 1A

Published for Opposition November 17, 1992

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 1751058

Registration Date February 9, 1993

Owner (REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 27129 CALLE ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Robert L. Epstein

Prior Registrations 1429311;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130222.

Renewal 2ND RENEWAL 20130222

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	Browse Data	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jul 2 03:20:34 EDT 2013

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DOC](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#)
[NEXT LIST](#) | [FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

Logout

Please logout when you are done to release system resources allocated for you.

Start

List At:

OR

Jump

to record:

Record 8 out of 16

TSDR

Word Mark Status

Design Mark Status

(Use the "Back" button of the Internet Browser to return to TESS)



Word Mark

BEVERLY HILLS POLO CLUB

Goods and Services

IC 025. US 022 039. G & S: footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes. FIRST USE: 19941001. FIRST USE IN COMMERCE: 19941001

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
 02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen
 02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans
 21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Serial Number

74558586

Filing Date

August 8, 1994

Current Basis

1A

Original Filing Basis

1B

Published for Opposition

May 9, 1995

Registration Number

2214846

Registration Date

December 29, 1998

Owner

(REGISTRANT) BHPC MARKETING, INC. CORPORATION CALIFORNIA 27129 CALLE ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Paul Fields, Amy J. Benjamin and Abigail Rubinstein
Prior Registrations 1429311;1687874
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090121.
Renewal 1ST RENEWAL 20090121
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME|](#) [SITE INDEX|](#) [SEARCH|](#) [eBUSINESS|](#) [HELP|](#) [PRIVACY POLICY](#)

CERTIFICATE OF SERVICE

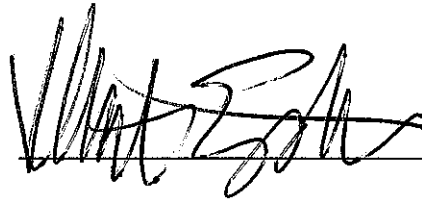
I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid, on this 2nd day of July, 2013, upon Applicant at the following address:

King Family Vineyards, LLC

6550 Roseland Farm

Crozet, Va 22932-3336

BY:

A handwritten signature in black ink, appearing to be "V. M. [unclear]", written over a horizontal line.
